

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

NO. 7:18-CR-184-FL-1

UNITED STATES OF AMERICA

v.

JAMES CARNELL BRINSON, JR.,

Defendant.

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ORDER

This matter came before the court on June 18, 2020, for administrative telephonic conference on trial scheduling where trial of this matter is presently set to commence on Monday, June 22, 2020, at 9:30 a.m. in New Bern.

At teleconference, defendant, with consent of the government, made oral motion to continue trial pursuant to the Speedy Trial Act of 1974, as amended, 18 U.S.C. § 3161. The court may exclude from speedy trial computation “[a]ny period of delay resulting from a continuance granted by any judge on [her] own motion or at the request of the defendant or his counsel or at the request of the attorney for the Government, if the judge granted such continuance on the basis of [her] findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(7)(A). In granting a continuance under the “ends of justice” provision, the court must make findings based on a nonexhaustive list of factors, such as the complexity of the case and the time reasonably required by the parties to prepare. See 18 U.S.C. § 3161(h)(7)(B).

At conference, the court inquired how much time defense counsel and counsel for the government reasonably required to effectively prepare for trial, considering the due diligence

of the parties and any complexities in the case. The court further inquired whether there were any other reasons that proceeding to trial on June 22, 2020 would be likely to make continuation of trial impossible or result in a miscarriage of justice.

Counsel for defendant explained that both he and his family are vulnerable individuals at risk of contracting the communicable disease known as COVID-19. Counsel also explained that, within the past week, defendant had been exposed to a New Hanover County jailor reasonably believed to have contracted COVID-19. Defendant also had expressed his concern to counsel about selection of a jury where members of the jury venire might opt out due to fear of exposure to COVID-19. Defense counsel expressed preference that the case be continued until at least the start of the school year, when risk of exposure for his children is minimized.

For their part, counsel for the government also expressed reluctance to proceed. One government witness from the Sampson county sheriff's office had been exposed to COVID-19 through his wife. That witness in turn meet with several government agents and counsel for the government. Moreover, the government explained that six agents that conducted forensic analyses in the instant case would have to travel from Miami, Florida to testify, and that if any one of the agents caught the disease the crime lab servicing a substantial region of the country could be shut down for quarantine of its employees. To minimize this risk, the government now seeks to reduce the number of agents it would need to bring from six to one, by allowing additional time for further analyses in advance of trial.

Taking the parties' responses into account, the court suggested trial dates in September, November, and December. Counsel for the government was unable to proceed in September due to his obligation to appear before this court in Raleigh for trial of another matter. Both parties agreed that trial in November would appropriately address the concerns raised at conference.

Accordingly, defense counsel's oral motion to continue is granted. Jury trial of estimated length of four days, previously set to commence June 22, 2020, is CONTINUED to Friday, November 20, 2020, at 9:30 a.m. at New Bern. The court finds that the ends of justice served by this continuance outweigh the best interests of the public and the defendant in a speedy trial.

SO ORDERED, this the 18th day of June, 2020.


LOUISE W. FLANAGAN
United States District Judge